



City of Tigard

Tigard City Council Meeting Minutes September 8, 2015

STUDY SESSION

Council Present: Mayor Cook, Councilor Woodard, Councilor Henderson, Councilor Goodhouse, and Council President Snider

Staff Present: City Manager Wine, Assistant City Manager Newton, City Attorney Ramis, City Recorder Krager, Parks Manager Martin, Assistant Community Development Director McGuire, and Associate Planner Floyd

Mayor Cook called the study session to order at 6:30 p.m.

A. COUNCIL LIAISON REPORTS

Councilor Henderson said the Tigard Youth Advisory Council members will host a chalk walk activity at the Downtown Tigard Street Fair. The youth are publicizing and coordinating it.

Councilor Goodhouse reported on a Westside Economic Alliance meeting. He also reported on a Tigard Transportation Advisory Committee (TTAC) meeting and said a loan from the Gas Tax Fund is required to begin the Wall Street planning.

Mayor Cook attended a Washington County Coordinating Committee (WCCC) meeting where the proposed list of Transportation Development Tax (TDT) projects was amended. The Roy Rogers Road widening project was included. The Major Streets Transportation Improvement Program (MSTIP) planning for the next round beginning in 2019 will start earlier than usual. There is \$35 million annually for five years available and Tigard will be submitting projects for inclusion on the list.

B. RECEIVE LAND USE PROCESS BRIEFING

City Attorney Ramis gave a refresher on the quasi-judicial public hearing process. He said once the hearing winds down, five things need to get managed in a coordinated way. 1) The 120-day clock cannot be exceeded and staff will keep council apprised of this date. There may be a request for a waiver depending on what the city wants to accomplish. 2) A final statement by staff is needed so council can ask questions and staff can comment on the evidence. At the close of oral testimony staff loses any opportunity to comment further unless council reopens

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the record. 3) The applicant has the burden of proof so they have the right to give the last word. They can do this by filing a final written submission. No evidence is allowed after this. 4) Council deliberates to reach a decision. 5) Findings are adopted describing the decision. City Attorney Ramis said these five things usually need to happen in a short timeframe.

Mr. Ramis said once the record is closed council enters deliberation to determine their decision, but could also elect to reopen the record if they think there is additional information or a different option needed. This requires a meeting notice and is a new opportunity for people to comment. He referred to the Heritage Crossing quasi-judicial public hearing on the agenda later in this meeting and stated there is a request that council reopen the record. He recommended that if council decides tonight to reopen the record, it be done well before deliberation because there is no point in deliberating and then deciding to reopen.

City Attorney Ramis said the specific request by the applicant tonight is that council reopen the record to consider a map showing a compromise proposal. This map is not before council so he was speaking generally, not specifically, but said it suggests a compromise and partial zone change. If council is interested in adding this to the record and deliberating about it, they will need to motion to reopen the record and work with staff to select a date for a continued hearing which will need to be noticed. The applicant in this case has offered to pay for the notice. The continued hearing would be specifically targeted on this compromise, but everyone who has testified has the opportunity to testify again on the issues raised by staff. The final point is adoption of findings. Mayor Cook clarified that this would not go back through the Planning Commission. Councilor Henderson asked why it would not and City Attorney Ramis said it was reasonable to characterize this as a proposal for conditions, but Council could decide that this change is so substantially different or extreme that they want to remand it back to the Planning Commission or ask the applicant to do a new application. The city code is silent on this subject so it is up to council.

Regarding findings, City Attorney Ramis said council should make their decision tentative, subject to reviewing findings submitted by staff for review and adoption. Usually the prevailing party is consulted because they have the burden to defend the findings if the case goes to the Land Use Board of Appeals. He said if a land use application is approved, the city's position is that it is the applicant's burden to defend it, so for that reason it is fair to allow them substantial input into what the findings say. Staff reviews the findings to make sure they do not set a bad precedent or are at odds with the city's code.

City Attorney Ramis described the outline for the hearing tonight. There will be a brief staff report which will be a short statement on the status of the case, a call for disclosures and conflicts, a brief attorney procedural statement since testimony guidelines are not needed, and council deliberation. He said if anyone on council wished to reopen the record, the logical point to do that is at the deliberation stage.

Councilor Woodard said the process was confusing and City Attorney Ramis agreed it is not typical to have the applicant come in with new evidence after the record and hearing are closed. He said council could elect to deliberate and make a decision tonight on the evidence already in

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the record. If they want to see the new evidence the hearing must be continued, the record opened for the new evidence and an opportunity allowed for everyone to hear the new information and testify on the case.

City Manager Wine said the purpose of having the city attorney discuss this with council was to receive generic information on what council should do when it comes time to deliberate on a quasi-judicial land use matter. Staff wishes to formalize the steps so the process is smoother in the future.

C. UPDATE ON YOUTH SPORTS LEAGUE AGREEMENTS

Assistant City Manager Newton introduced this item and acknowledged former Tigard Little League (TLL) President Kim Kelleher, who has been helping with the process, and was present tonight. Ms. Newton said she spoke with Southside Soccer just prior to this meeting. She will loop back with their representative one more time but the agreement has already been distributed to their board and no comments were received. She praised both league representatives for their thoughtful comments and commitment. She said staff and the leagues have reached agreement on some key assumptions and these are listed in the staff report.

Ms. Newton said the TLL had some suggestions and she covered these briefly. She said in her 35 years with the city there was a period where park staff was cut back to one employee. Public Works parks staff are concerned that if that unlikely event happened again the city would be in the position where the fields might not be maintained and the agreement would need to be terminated. She said both Southside and Tigard Little League understand that the city would not necessarily want to terminate the agreement but might need to until things recovered. Councilor Henderson asked if an arbitrator would be used in that instance. Ms. Newton replied that when this happened before, the city had a plan and that was to go out for a levy. The levy passed so there was just a nine-month period where the city did not have the funding to maintain the fields for league use. It would be a budget/council decision.

Their second concern is about the term of the agreement. TLL suggested that the term be for an initial 15 years with the option for two renewals rather than an initial ten years with three renewals. Early discussions with council showed a preference for ten years but she did not know if this was a deal breaker and asked for feedback.

The last concern is that the agreement allowed 14 days to cure a breach if there is a violation in the contract. TLL pointed out they are working with volunteers so more time may be needed. City Attorney Rihala suggested 30 days and TLL requested 60. Ms. Newton requested that council decide.

Councilor Woodard said he was not present when this was first discussed and he had some concerns. He asked why other leagues would not have these same opportunities when the ten-year period passes. He said the term goes above and beyond what would be fair compensation. Ten years is fair but he had problems with qualifying statements and challenges that might come from other leagues. The two leagues are paying for their own operations but the taxpayers might take the position that their taxes are paying for field wear and tear.

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Council President Snider asked if another league met the qualifications was there anything that would stop the city from forming a similar agreement with them for city facilities. Ms. Newton said that was true. Mayor Cook said they would need to bring in some capital for improving a field for him to support this.

Council President Snider said he did not think the termination wording was needed in the case of a dire financial issue with the city. He suggested a middle-ground where they can use the field but the city does not guarantee the field condition. He said terminating the agreement for a few months and then restarting it when a levy is passed is not logical. Ms. Newton said staff is taking on the responsibility for making sure the fields are safe for children to play on.

Councilor Goodhouse suggested instead of termination in a dire financial time for the city, the agreement could state that the users would need to maintain the fields themselves so they do not deteriorate too much in the time it takes the city to recover and take over maintenance again.

Councilor Henderson said there was a communication problem between the leagues and the city and the cure was an annual meeting. He asked if just one meeting each year was adequate and would there be more if an issue develops. City Manager Wine said that scenario is covered in Section 16 Dispute Resolution.

Mayor Cook said alternate language as suggested by Councilors Snider and Goodhouse was fine with him for the first question. He said a 15-year term was good and after serving on these boards, he understands the leagues' desire for 60 days to cure a contract breach. Councilor Goodhouse and Council President Snider agreed with the 60 days and a 15-year term. Councilor Woodard said he preferred a ten year term. He asked for, and Assistant City Manager Newton said she will provide, the calculations from the Finance Department on the property contribution payments made by the leagues. Ms. Newton said she will incorporate this feedback into the league agreements and they will come to council for consideration on September 22.

D. RECEIVE UPDATE ON TIGARD/BEAVERTON IGA FOR JOINT LAND PARTITION

Assistant Community Development Director McGuire directed council to a map showing a parcel of land that straddles Scholls Ferry Road and is located partially within both Tigard and Beaverton. West Hills Development Corporation has purchased the property and wishes to partition it into two parcels north of Scholls Ferry Road located in the Beaverton City limits, and one parcel south of Scholls Ferry Road located within the Tigard city limits.

Mr. McGuire said an IGA between Beaverton and Tigard will provide an efficient approach to achieve this partition. Beaverton would have primary authority and will use their development code process in their portion and Tigard's development code for the area south of Scholls Ferry Road. Beaverton will prepare a staff report for Tigard to review and then they will

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approve the entire partition. Council President Snider asked if it is a recommended practice for a city to approve another city's land use action. City Attorney Ramis said it is allowed in the intergovernmental agreement section of the statute and it is his recollection that this was done with Tualatin previously for the Bridgeport Village shopping center. City Manager Wine said the IGA would be on a future council consent agenda.

Administrative Items: Assistant City Manager Newton asked if council would be available on January 28 for the winter outreach Town Hall at Summerfield.

The Study Session ended at 7:27 p.m.



1. BUSINESS MEETING

A. At 7:34 p.m. Mayor Cook called to order the meeting of the Tigard City Council and Local Contract Review Board.

B. City Recorder Krager called the roll.

	Present	Absent
Councilor Henderson	✓	
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook	✓	
Councilor Goodhouse	✓	

C. Mayor Cook asked everyone to join him in the Pledge of Allegiance.

D. Mayor Cook asked Council and Staff for Non-Agenda Items. None.

2. CITIZEN COMMUNICATION


A. Follow-up to Previous Citizen Communication – None.

B. Tigard High School Student Envoy –

Associated Student Body President Shaina Azbari reported on recent and upcoming activities at Tigard High School. A staff breakfast hosted annually by the class presidents was held on August 31. The Powerhouse Coffee Shop began operations, raising money for various entities. Today was Freshmen Orientation, hosted by the Link Crew. There are over 500 freshmen this year and over 160 upper classmen volunteered to help to make their first day of high school an easier adjustment. An Open Table cultural event, educating students on different cultures and uniting them with food will be held on September 21 at the Commons. Homecoming is scheduled on October 2 for the game and parade with the dance on October 3. The theme this year is “Night under the Big Top.” The October 9

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football game will be a “pink out” supporting breast cancer research, raising money and awareness for the Susan G. Komen Foundation. Mayor Cook said he was impressed with the number of students attending the first football game even though school had not begun for the year.

- C. Tigard Area Chamber of Commerce – Tigard Chamber CEO Mollahan will give an update at the September 22 meeting.
- D. Citizen Communication –  Zachery Dean, 7814 SW Cedarcrest Street, Tigard, OR, said he was elected as the new Tigard Youth Advisory Council (TYAC) president and is looking forward to helping out the council and the city. TYAC will be helping at the Downtown Tigard Street Fair with the chalk walk. Anyone can participate and will be assigned a space on the Burnham Street sidewalk to show off their artistic skills with chalk. Mayor Cook noted that the Tigard Downtown Street Fair is from 11 a.m. to 5 p.m. on Saturday, September 12, with food, beer garden, wine, booths and entertainment. Councilor Henderson noted that people will have an opportunity to meet Tigard’s newest police dog, Diesel.

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board)

A. RECEIVE AND FILE:

- 1. Council Calendar
- 2. Council Tentative Agenda for Future Meeting Topics

B. APPROVE CITY COUNCIL MINUTES:

July 14, 2015 Minutes

C. AUTHORIZE THE CITY MANAGER TO SIGN AN AGREEMENT WITH CLEAN WATER SERVICES AND BEAVERTON REGARDING BARROWS ROAD SANITARY SEWER PHASE 3


Council President Snider moved for approval of the Consent Agenda. Councilor Woodard seconded the motion.

	Yes	No
Councilor Henderson	✓	
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook	✓	
Councilor Goodhouse	✓	

Mayor Cook announced that the Consent Agenda was approved unanimously.

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4. CONTINUATION OF QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF HERITAGE CROSSING ZONE CHANGE AND SUBDIVISION (ZON2015-00002/SUB2015-00001/VAR2015-00001)

- a.  Mayor Cook announced that tonight's council deliberations are to focus on the appeal filed by the applicant. Final written arguments were due on July 28, 2015 and the record and hearing are closed. There will be a statement by the city attorney regarding procedures.
- b. City Attorney Ramis said because the proceedings are at the point of deliberation he could dispense with going over testimony guidelines because no testimony will be taken tonight.
- c. Mayor Cook asked if any members of Council wished to report any exparte contact or information gained outside the hearing, including any site visits. Councilor Goodhouse said he runs and drives by the site daily. Council President Snider said he lives in the neighborhood and has been paying more attention to the area and the density. Councilor Woodard said he walks by the site. Councilor Henderson related that he has admired the site for years. Mayor Cook said some people came to a National Night Out event and asked if they could talk to him about this and he said no, it was in a quasi-judicial process. They respected that and did not discuss it.

Mayor Cook asked if all members had familiarized themselves with the application and no one said they had not. He asked if there were any challenges from the audience pertaining to the council's jurisdiction to hear this matter or if there was a challenge on the participation of any member of the council. There were none stated.

- d. Mayor Cook called for final remarks by staff.

Associate Planner Floyd said this is a proposal for a concurrent zone change and subdivision. The zone change would convert 9.1 acres of land from R-12 to R-7. The site is located on Hall Boulevard just north of the intersection on Durham Road. On July 14, 2015, staff and the applicant both made presentations regarding the three approval criteria. This is before council on appeal from the Planning Commission's decision to deny the request. On July 14, after staff and the applicant made presentations regarding the three approval criteria, council took oral and written testimony from the public and closed the record with one exception. The applicant was allowed to provide final written argument by July 28, 2015. The applicant met the deadline and provided their argument which is in the staff report before council. Staff had no comment on the argument.

Mr. Floyd said the city council is obligated to make a decision within 120 days of the application being deemed complete. The 120 days expired on July 23, 2015. The

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applicant provided an extension until tonight. Council must make a decision to uphold the Planning Commission decision, overturn the decision, or reopen the record to consider new evidence, which will require re-noticing the project. City Attorney Ramis concurred with the staff remarks.

- e. Mayor Cook asked if council had any questions or comments before consideration of a motion.

Councilor Goodhouse moved to reopen the record. Mayor Cook asked for the reason and Councilor Goodhouse responded, “for additional information.” Council President Snider seconded the motion. He added that he was prepared to make a decision tonight and is always troubled by late in the game information but he understands the applicant has additional information that may be a compromise. He said he did not want to stifle a compromise and would prefer to make a motion, but without even knowing what it is, can support the general concept that there might be a better way for everyone. Councilor Woodard said he was also concerned to learn that there is additional information but he cannot know what it is at this point. He said he agreed with reopening the record. He said he also was prepared to make a decision but this got him curious and he does not want to feel like he is blinded in any area so he agreed with opening the record. Council President Snider asked City Attorney Ramis to clarify the process.

City Attorney Ramis said it made sense for the staff to determine what hearing schedule dates might be available, select one, ask the applicant if they are willing to extend to that date, and then put that in the record.

Associate Planner Floyd said staff had not received an official submittal of a compromise solution and in terms of noticing, would need four weeks lead time in order to satisfy requirements for newspaper publication and mailing notification to the neighbors. The absolute soonest date would be October 6, 2015, provided the applicant could provide materials tomorrow. He said staff would feel more comfortable with mid-October. He asked the city recorder what dates were available and asked if council had a preference regarding their availability. City Manager Wine said if council is willing to hold a combined business and workshop meeting they could meet on October 20 or after that, the October 27 business meeting. Councilor Woodard noted he was unavailable on October 27. Associate Planner Floyd said the October 20th date is within the 245-day maximum extension period.

City Attorney Ramis said applicant’s counsel indicated to him that they would be agreeable to an extension to the 120-day clock to a date that is two weeks beyond the date of the hearing in order to provide an opportunity to prepare adoption findings. He said they will put that in writing.

Mayor Cook asked if there was any additional discussion. Council President Snider asked if council would be hearing the additional information tonight and City Attorney Ramis

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said there will be a hearing on the date set, council will receive a staff report and will consider the evidence taken that night.

Councilor Goodhouse and Council President Snider withdrew their motion and second.

Mayor Cook moved to continue the hearing to the date certain of October 20 and reopen the record, give the public notice that they will be able to comment, extend the 120-day rule to two weeks from the October 20 date to give time for hearing procedures. Councilor Woodard seconded the motion. There was no further discussion.

	Yes	No
Councilor Henderson	✓	
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook	✓	
Councilor Goodhouse	✓	

Mayor Cook announced that the motion passed unanimously.

5. INFORMATIONAL PUBLIC HEARING – CONSIDERATION OF ORDINANCE
APPROVING CENTURYLINK FRANCHISE AGREEMENT

- a. Mayor Cook opened the public hearing.
- b. Staff Report: Network Administrator Sears introduced Metropolitan Area Communications Commission Administrator Fred Crist. Mr. Crist said there is a unanimous recommendation from MACC for a CenturyLink cable franchise in the Tigard area and four other MACC jurisdictions. He said it is a franchise similar to Comcast in that they wish to roll out a cable TV service but it would only be for the small area where they are currently providing telecommunications service, in north and northeast Tigard near Highway 217. The term is just five years in order to inspire additional build out.
- c. Public Testimony - No one signed up to speak
- d. Council Discussion and Questions – There were none.
- e. Mayor Cook closed the public hearing.
- f. Council Discussion and Consideration

Councilor Woodard moved to approve Ordinance No. 15-14. Councilor Henderson seconded the motion. There being no further discussion, Mayor Cook asked City Recorder Krager to read the number and title of the ordinance.

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ORDINANCE NO. 15-14 – AN ORDINANCE OF THE CITY OF TIGARD
GRANTING A NON-EXCLUSIVE CABLE FRANCHISE TO QWEST
BROADBAND SERVICES, INC. D/B/A CENTURYLINK


City Recorder Krager conducted a roll-call vote.

	Yes	No
Councilor Henderson	✓	
Council President Snider	✓	
Councilor Woodard	✓	
Mayor Cook	✓	
Councilor Goodhouse	✓	

Mayor Cook announced that the motion passed unanimously.

6. RECEIVE UPDATE FROM GREATER PORTLAND INC. ON REGIONAL
ECONOMIC DEVELOPMENT

Economic Development Manager Purdy introduced Greater Portland Inc. (GPI) Vice President Derek Olson who was present to give a report on GPI and their services.

 Mr. Olson gave an overview of GPI's services and their work plan. They are a regional public/private partnership that came together for three core functions: marketing, recruitment, and retention/expansion. Their territory is bi-state and they approach what is beneficial for the region as a whole. He noted that companies seeking a location look at regions first and once a decision is made, GPI helps them focus on specific areas based on land availability and other factors.

The GPI work plan is Uniting Regionally to Compete Globally. They build cross-border and cross-sector collaboration that leverages the region's assets, engages leadership and aligns efforts to compete in the global market. They develop best practices and other efforts to show cities how to grow and develop their economy.

Their Stay and Grow in Greater Portland effort develops tools and services that support local community partners in their ongoing efforts to retain and grow existing traded-sector companies in the region. Work is focused on bread and butter industries to retain them. They do not control incentives but piece together taxes, etc.

Choose Greater Portland creates targeted awareness of the regional value proposition as a place for businesses. They re-launched their website and targeted the Silicon Valley with advertising. Their website is new and designed for those not familiar with the region. It is targeted for site selectors and Tigard helped pioneer this focus. Research and analysis has been expanded, with information on comparative costs, utilities and taxes. Mr. Olson said

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GPI can also do modeling of what additional jobs would do for an area. This is information a city could use to develop incentives.

Economic Development Manager Purdy said site selection for the state does not zero in on Tigard. GPI shares inquiries with real estate professionals and if there seems to be a fit, that connection is made. When communities collaborate it is better for the region as a whole.

Councilor Henderson asked who the biggest competitor to the Portland area is. Mr. Olson said they look at who the region is compared to and also what cities they would like to be compared to. He mentioned Salt Lake City and Austin but said not so much Seattle. San Francisco area companies are looking at the Portland area for expansion. Companies are looking for access to Asia and that is why GPI partners with the ports of Vancouver and Portland. One area that is a strength and also a weakness is that wages are lower here; we are a cost competitive large metro area in the west coast states. Our software industry is up and coming. There are workforce challenges but many of our competitors face the same thing.

In response to a question about the Port of Portland losing its container business, Mr. Olson said that was a negative but the container business was always a small part of the Port's business. Most exports were already going through Seattle, Long Beach or by air. It does impact hay and other agricultural product growers in this region. Because other Portland competitors are land-locked, such as Cincinnati and Salt Lake, it is a loss but not a crippling one. The port leaders are working hard to replace it. For some, air cargo is more important than sea cargo and the PDX airport is doing well.

Mayor Cook said he appreciates GPI's effort to help cities retain businesses. Mr. Olson said it is also about growing trust and building relationships with businesses and they hope to do even more in those areas. Mayor Cook gave Mr. Olson a City of Tigard pin.

7. EXECUTIVE SESSION - None
8. NON AGENDA ITEMS - None
9. ADJOURNMENT

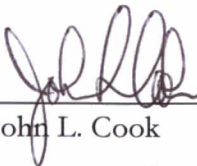
At 8:39 p.m. Councilor Woodard moved for adjournment. Council President Snider seconded the motion and all voted in favor.

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Councilor Henderson
Council President Snider
Councilor Woodard
Mayor Cook
Councilor Goodhouse

Yes	No
✓	
✓	
✓	
✓	
✓	

Carol A. Krager
City Recorder Carol A. Krager

Attest: 
Mayor John L. Cook
Date: October 13, 2015

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